

REMARKS

Applicant amends the specification to correct minor typographical errors. No new matter is introduced.

With regard to the section 103 rejection, the Office Action states that the

"APA does not explicit [sic] teach the parse controlling a persistency."

Applicant is unsure what "parse" means, but assumes that it may mean the device driver. As best understood, the Office Action suggests that because the device driver "makes itself available to the intermediate driver," it would have been obvious for it to control its own persistency in order to install itself.

As the Examiner correctly suggests, a conventional device driver can detect messages. In particular, the device driver detects messages that contain instructions to be translated into a form that is understood by the device being driven. These messages can come directly from the operating system or from an intermediate driver.

Unfortunately, upon detecting a message, a conventional device driver has no way of knowing whether the message came from an intermediate driver. Therefore, the device driver cannot know whether it is to operate in persistent mode, because the message came from an intermediate driver, or whether it is to operate in non-persistent mode, because the message came directly from an operating system.

The sole function of the conventional device driver is to translate instructions it receives into instructions that can be carried out by the network interface card. Knowing who sent the instructions does not assist the device driver in carrying out its mission. The instructions are translated in the same way regardless of their source. There was therefore never a motivation to provide the device driver with the ability to determine where its instructions came from. Nor has there ever been any teaching or suggestion of how this might be carried out.

The present invention provides a device driver that adaptively switches between non-persistent and persistent mode depending on whether an intermediate driver is present. This

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limitation is clearly recited in each of the independent claims. Since the independent claims are therefore patentably distinct over the prior art, all claims dependent thereon are likewise patentably distinct over the art. Accordingly, Applicant requests allowance of all claims.